

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ADMIRAL CONTAINER LINES OF MALTA., :
: Plaintiff, :
vs. : Case No. 1:21-cv-11069
: :
USD 253,120, *in rem*, :
held by J.P. MORGAN CHASE BANK, N.A., :
383 Madison Avenue :
New York, NY 10179; :
XYZ CORPORATION; AND JOHN DOES 1-100, :
: Defendants. :
: :
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**PLAINTIFF'S MOTION FOR EXPEDITED CONSIDERATION OF MOTION FOR
WARRANT OF ARREST, MOTION FOR AN ORDER AUTHORIZING ISSUANCE OF
PROCESS OF MARITIME ATTACHMENT AND GARNISHMENT, AND MOTION
FOR AN ORDER APPOINTING A SPECIAL PROCESS SERVER**

COMES NOW, Plaintiff Admiral Container Lines of Malta (hereinafter "Plaintiff" or "Admiral Container"), by and through undersigned counsel, files this Motion for Expedited Consideration of its Verified Complaint (DE 1), *Ex Parte* Motion for Warrant of Arrest (DE 4), *Ex Parte* Motion for Issuance of Process of Maritime Attachment and Garnishment (DE 5), and *Ex Parte* Motion for Appointment of Special Process Server (DE 6), and respectfully pleads as follows:

On December 27, 2021, Plaintiff filed a Verified Complaint requesting, among other things, the entry of an Order of *in rem* arrest, the entry of an Order authorizing the issuance of process of maritime attachment and garnishment, and the entry of an Order appointing a special process server to effect service of the process of maritime attachment and garnishment. *See* DE 1, 4, 5 and 6. As set forth in the Verified Complaint, Plaintiff is informed and believes Defendants have within the District bank accounts where property belonging to Defendants is expected to be

maintained in the hands of garnishee, J.P. Morgan Chase Bank, N.A. *See DE 1, Ex. 1-3.* Pursuant to Supplemental Rule B and federal admiralty law, the identified Bank Account(s) which were utilized to accomplish the fraudulent scheme is subject to Rule B attachment. *Winter Storm Shipping, Ltd. v. TPI*, 310 F.3d 263, 276, 2002 A.M.C. 2705 (2d Cir. 2002), overruled on other grounds by *Shipping Corp. of India*, 585 F.3d 58 (2d Cir. 2009) (citing *Aurora Mar. Co. v. Abdullah Mohamed Fahem & Co.*, 85 F.3d 44, 46 (2d Cir. 1996)).

In addition, it is respectfully submitted that Plaintiff may obtain a Rule D warrant of arrest of the funds in the hands of the garnishee which are the maritime property of Plaintiff. Property which was obtained through fraudulent and illegal means by Defendant(s) posing as Plaintiff's maritime contract partners. *See DE 1.* Funds held in a bank account are considered *a res* and capable of being arrested consistent with the Supplemental Rules. *Ravenna Tankers Pte v. Omni Ships Pte*, 2013 U.S. Dist. LEXIS 69772, *18 (E.D. La. May 15, 2013) ("Although the property to be arrested usually is a vessel, any property that is subject to a maritime lien can be arrested, including intangible property such as subfreights.") (internal citations and quotations omitted).

Here, there is a great risk that the property located in the bank account(s) within the District may be dissipated and evade enforcement without the urgent assistance of this Court. *See Yayasan Sabah Dua Shipping SDN BHB v. Scandinavian Liquid Carriers, Ltd.*, 335 F. Supp. 2d 441, 444 (S.D.N.Y. Sept. 13, 2004) ("Without [maritime attachment], defendants, their ships, and their funds easily could evade the enforcement of substantive rights of admiralty law."); *See also Parcel Tankers, Inc. v. Formosa Plastics Corp.*, 569 F. Supp. 1459, 1462 (S.D. Tex. 1983)) ("Because the perpetrators of maritime injury are likely to be peripatetic . . . jurisdiction by attachment of property should be accorded special deference in the admiralty context" and accordingly, "maritime actors must reasonably expect to be sued where their property may be

found.”) (quoting *Amoco Overseas Oil Co. v. Compagnie Nationale Algerienne*, 605 F.2d 648 (2d Cir. 1979)). *See also Aqua Stoli Shipping Ltd. v. Gardner Smith Pty Ltd.*, 460 F.3d 434, 443 (2d Cir. 2006) (“[M]aritime parties are peripatetic, and their assets are often transitory.”) (citing *In re Louisville Underwriters*, 134 U.S. 488, 493, 10 S. Ct. 587, 33 L. Ed. 991 (1890)).

Respectfully, there is no more peripatetic asset than funds in a bank account which can easily be withdraw and/or transferred out of the district and the reach of this Court’s jurisdiction. Accordingly, Plaintiff submits that good cause exists for expedited review of the pending Verified Complaint and pending Motions and requests this Honorable Court issue the requested Orders.

WHEREFORE, as all of the elements of Supplemental Rule B and Rule D have been met, Plaintiff, Admiral Container Lines of Malta, respectfully requests that this Court expedite consideration of Plaintiff’s *ex parte* Motions, enter an Order of *in rem* arrest directing the United States Marshal Service for the Southern District of New York to arrest the Defendant *in rem* totaling USD 253,120, enter an Order authorizing the Issuance of Process of Maritime Attachment and Garnishment directing any and all garnishees to garnish any tangible or intangible personal property in their possession, custody or control belonging to the Defendant, enter an Order appointing a special process server, who is over the age of 18 and not a party to this action, and to grant Plaintiff such other and further relief as may be just, equitable and proper.

Dated: January 4, 2022
Oyster Bay, New York

Respectfully submitted,

CHALOS & CO, P.C.

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